



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 230330-0087]

RIN 0648-BL61

Fisheries of the Northeastern United States; Improvement and Modernization of Atlantic Surfclam and Ocean Quahog Vessel Reporting Regulations

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulation changes to integrate the vessel reporting requirements for the Atlantic surfclam and ocean quahog fisheries with the reporting requirements for all other commercial fisheries in the Greater Atlantic Region. These changes are intended to simplify the regulations and make it easier for surfclam and ocean quahog vessel operators to submit the required fishing trip reports electronically. This action would result in improved administration and management of the surfclam and ocean quahog fisheries.

DATES: Comments must be received on [*insert date 30 days after date of publication in the FEDERAL REGISTER*].

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2022-0100, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov and enter NOAA-NMFS-2022-0100 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Michael Pentony, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope: “Comments on Surfclam/Ocean Quahog Vessel Reporting Rule.”

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to the Greater Atlantic Regional Fisheries Office and to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review - Open for Public Comments” or by using the search function.”

FOR FURTHER INFORMATION CONTACT: Douglas Potts, Fishery Policy Analyst, (978) 281-9341, douglas.potts@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

The Mid-Atlantic Fishery Management Council (Council) manages the Atlantic surfclam and ocean quahog fisheries under the Atlantic Surfclam and Ocean Quahog Fishery Management Plan (FMP). The FMP has included a requirement for fishing vessels to maintain and submit a log of fishing operations since it was first implemented

(42 FR 60438, November 25, 1977). Over the years, other species also became subject to management under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and additional fishing vessel reporting requirements were added to the regulations. To cover the reporting requirements of these other fisheries, a standardized fishing vessel trip report (VTR) form was developed. For a number of reasons, including the specific requirements of the Atlantic Surfclam and Ocean Quahog Individual Transferable Quota (ITQ) management system, the surfclam and ocean quahog vessel reporting regulations have remained separate from the vessel reporting regulations that apply to all other commercial fisheries in the Greater Atlantic Region, and surfclam and ocean quahog vessels have used a form separate from the VTR, often referred to as the clam logbook, to report fishing trips that specifically target surfclam or ocean quahog.

Until recently, all VTR and clam logbook submissions were made using paper forms completed by the vessel operator and then submitted to NMFS. Because there were two separate sets of reporting regulations, a surfclam or ocean quahog fishing vessel that incidentally caught another federally managed species was required to submit two separate forms for the trip: A clam logbook for their surfclam or ocean quahog catch and a standard VTR for all other species. This was inconvenient, but could reasonably be accomplished as long as the vessel operator had both paper forms readily available.

As of November 10, 2021, NMFS required all commercial fishing vessel trip reports be submitted electronically (85 FR 71575, November 10, 2020). Surfclam and ocean quahog vessels were allowed to continue submitting paper trip reports because a suitable electronic reporting application that addressed the unique requirements of that fishery was not available at that time. Since then, NMFS has completed the necessary changes to our Fish Online electronic VTR (eVTR) application to accommodate the unique reporting requirements of the surfclam and ocean quahog ITQ fisheries. On

December 1, 2022, NMFS announced that all surfclam and ocean quahog trip reports must be submitted electronically as of February 1, 2023. While Fish Online may be the only reporting application initially available to surfclam or ocean quahog fishermen, the proposed regulatory changes will make it easier for developers of other eVTR applications to accommodate surfclam and ocean quahog vessels, if the application developers choose to incorporate reporting for these fisheries in the future.

The regulatory changes proposed in this action would eliminate the requirement for a separate surfclam/ocean quahog logbook and would instead authorize surfclam and ocean quahog vessel operators to complete the standard eVTR with additional fields added to collect information specific to the ITQ fishery, including the ITQ allocation number, the cage tag numbers for all cages being landed, and price per bushel. This information is already reported by the fishery on the surfclam/ocean quahog logbook, so there would be no change to reporting burden on fishermen. Overall, the reporting burden would decrease as surfclam and ocean quahog trips that also land other regulated species would no longer be required to submit two reports, instead fulfilling all reporting requirements through a single electronic submission.

If this proposed action is implemented, surfclam and ocean quahog vessel operators would report some information in a different format than is currently used on the surfclam and ocean quahog logbook. However, because vessel operators are already required to complete and submit the standard eVTR for incidentally caught species, they are already familiar with the fields used for this electronic format.

In this proposed rule, one data field would be removed from the regulations. The current list of required data fields on the clam logbook includes “Crew share by percentage” (50 CFR 648.7(b)(1)(iii)(H)). However, that field has not been included on the paper forms for at least 20 years. This information is not collected for other commercial fisheries in the region and is not necessary for the management of the

surfclam and ocean quahog fishery. Because it has not been collected, we propose removing this requirement from the regulations.

Classification

NMFS is issuing this rule pursuant to section 305(d) of the Magnuson-Stevens Act. The reason for using this regulatory authority is: Pursuant to Magnuson-Stevens Act section 305(d), this action is necessary to carry out the provisions of the Atlantic Surfclam and Ocean Quahog FMP, because the initial provisions adopted in 1977 have become inconsistent with other reporting requirements leading to an unnecessary additional reporting burden on the fishing industry. The NMFS Assistant Administrator has determined that this proposed rule is consistent with the Atlantic Surfclam and Ocean Quahog FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

The measures proposed by this action apply to surfclam and ocean quahog vessel owners. There were 677 total vessels that hold a surfclam and/or an ocean quahog vessel permit. Some entities own more than one fishing vessel, resulting in 399 regulated entities.

For Regulatory Flexibility Act purposes only, NMFS has established a small business size standard for businesses, including their affiliated operations, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is

independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$11 million for all its affiliated operations worldwide. Using this definition, there are 389 small entities and 10 large entities that would potentially be affected by this action.

The proposed measures are administrative in nature and are not expected to have impacts on the surfclam and ocean quahog fisheries, including landings levels (no changes in surfclam or ocean quahog ex-vessel revenues are expected), fishery distribution, or fishing methods and practices. The proposed action is not expected to result in changes to the nature or operation of the surfclam and ocean quahog fisheries. In addition, the proposed measures are not expected to disproportionately affect small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

This proposed rule contains a collection-of-information requirement subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This rule revises the existing requirements for the collection of information under the following OMB Control Number: 0648-0212, Greater Atlantic Region Logbook Family of Forms, by eliminating the shellfish log (NOAA Form 88-140). All respondents and responses that would have used this form would use the Fishing Vessel Trip Report (NOAA Form 88-30) instead. This form takes less time to complete and is submitted electronically resulting in a small decrease in estimated time burden and eliminates postage costs. Public reporting burden for the Fishing Vessel Trip Report is estimated to average five minutes, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency,

including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Submit comments on these or any other aspects of the collection of information at www.reginfo.gov/public/do/PRAMain.

Notwithstanding any other provisions of the law, no person is required to respond or, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: March 30, 2023.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 648 as follows:

PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.7, revise the introductory text of paragraph (b)(1)(i) and paragraph (b)(1)(iii) to read as follows:

§ 648.7 Recordkeeping and reporting requirements.

* * * * *

(b) * * *

(1) * * *

(i) *Vessel owners or operators*. At least the following information as applicable and any other information required by the Regional Administrator must be provided:

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(iii) *Surfclam and Ocean Quahog owners or operators*. In addition to the information listed under paragraph (b)(1)(i) of this section, the owner or operator of any vessel conducting any surfclam or ocean quahog fishing operations in the ITQ program must provide at least the following information and any other information required by the Regional Administrator:

(A) Total amount in bushels of surfclams and/or ocean quahogs taken;

(B) Price per bushel;

(C) Tag numbers from cages used; and

(D) Allocation permit number.

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